

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-54854 of 2007

.....

Date of decision:21.12.2007

Narinder Sharma alias Ravi alias Kala

.....Petitioner

v.

State of Punjab

.....Respondent

....

Present: Mr. A.S. Syan, Advocate for the petitioner.

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S.S. Saron, J. (Oral)

Heard learned counsel for the petitioner.

The petitioner seeks pre-arrest bail in a case registered against him for the offences under Sections 420 and 363 IPC.

The matter was inquired into by the DSP, Sunam, who observed that the petitioner and his co-accused Rakesh Kumar Sharma had received a sum of Rs.5 Lacs out of Rs.7 Lacs that had been settled for sending the son of the complainant, namely, Jagbhushan Singh to Australia. However, the son of the complainant was taken to Delhi and thereafter his whereabouts are not known.

Learned counsel for the petitioner has submitted that the complainant has stated that she does not want any action against the accused as her son has already come back. Besides, it is submitted that, in fact, the petitioner and his co-accused were duped and they were taken to Kolkata by

Jagbhushan Singh, the son of the complainant. It is also submitted that the complainant has not been able to give the source of Rs.5 Lacs that she is stated to have given to the petitioner and Rakesh Kumar Sharma. It is also submitted that Shamsheer Singh, DSP, Sunam on 1.3.2007 recorded that the son of the complainant has gone abroad and the complainant has stated that she does not want any action on the complaint.

After giving my thoughtful consideration to the contentions of the learned counsel for the petitioner, I find no merit in the same. It may be noticed that in the initial investigation that has been carried by the DSP, it was found that the petitioner and Rakesh Kumar Sharma are travel agents. It had come to the notice of the Investigating Officer that they had taken money for sending Jagbhushan Singh to Australia and they had taken him to Delhi and from there his whereabouts were not known. No telephone call had been received. Accordingly, registration of FIR was sought so that proper investigation is done against the petitioner. On the basis of the findings, the FIR was registered on 7.6.2007. Thereafter, the statement recorded by Shamsheer Singh, DSP, Sunam is earlier i.e. on 1.3.2007. In the circumstances, the custody of the petitioner would be required to ascertain the whereabouts of the son of the complainant and also regarding the role in the taking of money for sending the son of the complainant abroad. In case, however, the Police does not require their custody, it is not always bound to arrest them.

In M.C. Abraham v. State of Maharashtra, 2003 (1) RCR (Cr.) 452, it was observed by the Supreme Court that the Police is not always bound to arrest an accused even if the allegations against him are of having committed cognizable offence. Therefore, in case the Police finds that the

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custody of the petitioner is not required for the purpose of investigation, it is for them to exercise their discretion in that regard. However, on the basis of allegations and material on record, no ground for the grant of pre-arrest bail to the petitioner is made out.

Consequently, the criminal miscellaneous petition is dismissed.

December 21, 2007.

(S.S. Saron)
Judge

hsp